

1 A. Understood.

2 Q. If at any point and time I ask a bad question or  
3 you don't understand what I'm asking, it's inevitable  
4 that that's going to happen, please just let me know if  
5 you need me to rephrase or clarify, whatever it may be,  
6 just let me know, okay?

7 A. I will.

8 Q. If you do answer the question, we'll assume that  
9 you understood the question, fair enough?

10 A. That's fair.

11 Q. Okay. And if at any stage you want to take a  
12 break, that's fine. There's no problem with that. Just  
13 let us know. The only exception would be if there's a  
14 pending question, I ask that you answer the question  
15 before we take a break, okay?

16 A. Okay.

17 Q. And of course, as we proceed today, it is  
18 possible that some of the lawyers in attendance may  
19 object to my question or if others then question you, I  
20 may object to theirs. If that happens, please allow the  
21 objection to be spoken, and then go ahead and answer  
22 unless someone instructs you not to, okay?

23 A. Understood.

24 Q. Okay. Are you experiencing any circumstances  
25 that may affect your memory or your ability to testify

1 truthfully and accurately today?

2 A. No.

3 Q. What is your current employment, if any, with the  
4 City of Cleveland?

5 A. I am retired from employment with the City of  
6 Cleveland.

7 Q. Are you currently employed elsewhere?

8 A. I am not.

9 Q. When did you retire from the City of Cleveland?

10 A. I officially retired January 2, 2022.

11 Q. And what was your title at the time you retired?

12 A. I was an executive assistant to then Mayor Frank  
13 G. Jackson.

14 Q. And when did you begin working for the City of  
15 Cleveland?

16 A. 50 years ago today, January 16, 1973.

17 Q. Okay. And can you please walk me through the  
18 history of your employment with the City of Cleveland,  
19 starting from that time?

20 A. I can. I actually began my career even before  
21 January 16th of 1973, when I studied for a civil service  
22 exam. I took the background check, psychological check,  
23 physical examination, and a polygraph examination for  
24 employment with the City of Cleveland. But my official  
25 first day of work actually began through Cleveland

1 Police Academy in January 16, 1973.

2           Upon graduation from the police academy, I had a  
3 number of jobs in escalating levels of responsibilities  
4 through my career. I served in the Vice Enforcement  
5 Unit, the Accident Investigation Unit, basic patrol at  
6 the 4th District, 5th Police Districts. I served as a  
7 Sergeant in basic patrol activities, a Sergeant in  
8 Detective Bureau, and as a Lieutenant, I was the officer  
9 in charge of the Airport Unit, the Harbor Unit, the  
10 Narcotics Unit. I served again as Executive Assistant  
11 to then Chief Howard Rudolf. And when he retired in  
12 December of 1989, I stayed in that role and served as a  
13 Executive Assistant to incoming Police Chief Edward  
14 Kovacic until the fall of 1991. And in the fall of  
15 1991, I was assigned to the Homicide Investigation Unit  
16 as the officer in charge.

17           In 1992, I was assigned as Commander of the  
18 downtown police district. 1995, Commander of the Bureau  
19 of Community Policing. 1996, as the deputy Chief of  
20 Field Operations, where I had executive oversight of all  
21 of the police districts and the Bureau of Traffic and  
22 Communication. And in 1999, I was appointed Chief of  
23 Police until my retirement on August 26, 2001.

24           Following my retirement from the Division of  
25 Police, I was employed as, with the City of Cleveland,

1 as the Security Manager and Airport Security Coordinator  
2 at Cleveland Hopkins International Airport until January  
3 of 2006.

4 In January of 2006, incoming Mayor Frank G.  
5 Jackson asked me to return to City Hall as Director of  
6 Public Safety. I stayed in that job until February of  
7 2014. In February of 2014, I joined the mayor staff as  
8 a executive assistant on his staff.

9 I retired a second time in 2018, and was rehired  
10 by the City as a contract employment to work on some  
11 projects that the mayor wanted completed, specifically  
12 to transfer a jail operations from the City to Cuyahoga  
13 County and the sale of the headquarters building from  
14 the City to Cuyahoga County.

15 In September of 2019, I was reemployed by the  
16 City on a part-time basis, between September of 2018  
17 until I retired in January of 2022. I was a part-time  
18 employed, again, working on the mayor's staff, as a  
19 executive assistant to the mayor.

20 And on January 2nd of 2022, I retired for the  
21 third and final time.

22 **Q. A long and dedicated career to the City of**  
23 **Cleveland you've got there.**

24 **You mentioned that you were a sergeant in the**  
25 **Detective Bureau, when was that?**

1                   So, Jasmin, this would be the Detective  
2 Manual 1970, if you want to pull that, and hand it to  
3 Mr. Flask, please.

4                   MS. ALBINO: Yes.

5                   MS. GREENE: And I am putting this on the  
6 screen now. So when you have that on hand, let me know.

7                   MR. CALDERONE: Is this going to be Exhibit  
8 24?

9                   MS. GREENE: It will be, once we have it  
10 handy to mark, yes.

11                   - - - -

12                   (Thereupon, Plaintiff's Exhibit 24 was  
13 marked for purposes of identification.)

14                   - - - -

15                   MS. BOOP: I'm sorry. One moment. Can I  
16 take a look at this real quick? Okay.

17                   **Q. Looks like you have now what we now marked as**  
18 **Exhibit 24 in front of you, Mr. Flask --**

19                   MS. BOOP: Hang on, one second. We're  
20 flipping through it.

21                   MR. CALDERONE: Can I examine that exhibit  
22 also.

23                   MS. GREENE: Yes.

24                   MR. CALDERONE: This is part of a different  
25 exhibit.

1 MS. GREENE: And for the record --

2 MR. CALDERONE: We're just getting the  
3 exhibit prepared for you.

4 MS. GREENE: That's fine. I'm just going  
5 to --

6 MS. BOOP: There was extra pages at the end  
7 of it that looked like part of a different exhibit.

8 MS. GREENE: Thank you. Okay. So for the  
9 record, this is Bates stamped SUPP PROD, as in  
10 Supplemental Production, 000218 through 291.

11 Q. And, Mr. Flask, do you recognize this document?

12 A. Yes, I do.

13 Q. Is this one of the manuals that you reviewed?

14 A. Yes, it is.

15 Q. Okay. Now is there a second detective's manual  
16 of some type, that you also reviewed?

17 A. Yes, there is. There's a Manual of Rules.  
18 Appeared to have been a hardbound Manual of Rules that  
19 was specifically identified and issued to the detectives  
20 as the Division of Police. It was called the Manual of  
21 Rules.

22 Q. Okay. Would that have been -- well, let me just  
23 -- was this the manual --

24 MS. GREENE: I guess it's a question to  
25 Counsel. Maybe you can confirm this just for the ease

1 of speeding this along.

2 MS. BOOP: Sure.

3 MS. GREENE: Is that what has been marked as  
4 Exhibit 1?

5 MS. BOOP: Exhibit 1 to what? I'm sorry.

6 MS. GREENE: Plaintiff's Exhibit 1. I'll  
7 put it on the screen now.

8 - - - -

9 (Thereupon, Plaintiff's Exhibit 1 was  
10 introduced for purposes of identification.)

11 - - - -

12 MS. GREENE: But it was previously marked as  
13 Exhibit 1. Is that Manual of Rules --

14 MS. BOOP: I think we are talking about,  
15 yeah, that Manual of Rules. It's a booklet.

16 MR. PUIN: Jacqueline, they would have Bates  
17 numbers MAN, not CLE. It should have MAN Bates numbers.

18 If you scroll down, the CLE I don't think  
19 are correct. There's a more complete version of that,  
20 that we produced on Saturday, February 4th. I can  
21 e-mail it to you again right now if you want.

22 MS. GREENE: So there's a different version  
23 of this document, Exhibit 1, that you think was  
24 produced.

25 MR. PUIN: It's the same document, but it

1 MR. PUIN: I'll print it right now.

2 MS. GREENE: Yeah. And I'll make sure I  
3 have the electronic version.

4 MR. PUIN: I'll send it to you, also,  
5 Jacqueline. I know that Sarah has it, but since it's on  
6 my screen, I'll send it right now.

7 MS. GREENE: Thanks, so much, Tim.

8 All right. Off the record. Thanks,  
9 everybody.

10 THE VIDEOGRAPHER: Off the record at 11:10.

11 - - - -

12 (Off the record.)

13 - - - -

14 THE VIDEOGRAPHER: Back on the record at  
15 11:14.

16 BY MS. GREENE:

17 Q. Mr. Flask, I believe that you have been handed  
18 another document, which we will mark as Exhibit 25.

19 - - - -

20 (Thereupon, Plaintiff's Exhibit 25 was  
21 marked for purposes of identification.)

22 - - - -

23 MS. BOOP: Can we identify it by Bates  
24 numbers?

25 MS. GREENE: Yes. As soon as I get it open.



1                   Okay. So this document appears to be  
2 stamped Manual 001 through Manual 074, and we're going  
3 to mark this as Exhibit 25.

4           **Q. Mr. Flask, do you recognize this document?**

5           A. Yes, I do. There's actually two documents within  
6 this exhibit. There's actually a Manual of Rules,  
7 specifically for the Division of Police detectives. But  
8 there's also a second document that's included within  
9 here. It's the Rules of the Conduct of Discipline For  
10 All Members of the Cleveland Division of Police. So  
11 there's actually two specific -- two separate documents  
12 within this exhibit.

13                   MS. BOOP: Do you want me to identify that  
14 Bates number for you, Jacquie?

15                   MS. GREENE: Yeah, please. If I can find  
16 it.

17                   MR. PUIN: It's at the top.

18                   MS. BOOP: I can't read it.

19                   MR. PUIN: Manual --

20                   MS. BOOP: Starting on Manual 035 as the  
21 second manual.

22                   MS. GREENE: Okay. My technology is acting  
23 up at the moment. So I'm going to have to come back to  
24 this document a little later in deposition. But for  
25 now, we'll mark this as Exhibit 25.

1           Q. Mr. Flask, this is the second manual that you  
2 referenced, regarding detectives, that you reviewed in  
3 preparation for this deposition, correct?

4           MS. BOOP: Objection.

5           You can answer.

6           A. Yeah. Just to be clear, this is -- the Manual of  
7 Rules is, in fact, one of the three documents that I  
8 reviewed. The rules of conduct, which are at the back,  
9 starting at whatever page this is, is really a third  
10 document, a separate and standalone document.

11           MS. GREENE: All right. Well, then I would  
12 like to mark those separately. I don't know.

13           Let's say then the sticker is already on the  
14 Manual of Rules, which starts at Manual 001 and goes  
15 through 0034, correct?

16           MS. BOOP: Yeah. I think Tim wants to  
17 explain something here.

18           MR. PUIN: This is Tim Puin, City of  
19 Cleveland. The cover page, as you can see from the  
20 Xerox, is -- that's a leather book. And it is a binder,  
21 a six-ring binder. And the Manual of Rules that's on  
22 the title page of this, of the book, on the cover, may  
23 refer to the Rules of Conduct and Discipline, which  
24 begins on page Bates number Manual 35. But included  
25 within the copy that was found in the City's archive,

1 was also the Detective Procedure Manual, which is Manual  
2 2 through 34.

3 And so whoever the -- there's a signature of  
4 a police officer on three pages. That officer put --  
5 must have been a detective. And he put the Detective  
6 Manual in with the Manual of Rules. So those were all  
7 produced as one because that's the exact form they were  
8 found in the City. But as the witness said, those are  
9 actually two separate documents that the witness put  
10 together in a six-ring binder. Thank you.

11 MS. GREENE: Okay. So then we'll leave it  
12 as one exhibit, and note that this is the Manual of  
13 Rules. And if you could -- I'm having trouble getting  
14 this file open on my side in a way that it's working.  
15 It's part of the struggle we are having here.

16 MS. BOOP: I put it back together.

17 MS. GREENE: Thanks.

18 Q. So the Cleveland Police Department Detective  
19 Bureau Procedure Manual and the Manual of Rules are in a  
20 combined Exhibit 25 in this version that was obtained  
21 from, as Mr. Puin states, the City archives, correct?

22 MR. PUIN: Correct.

23 Q. Okay. And you reviewed both the documents  
24 contained in this Exhibit 25, correct, Mr. Flask?

25 A. I did.

1 Q. Okay. Thank you. So we will come back to this  
2 later. In the mean time, I would like to show you --  
3 well, actually, you know what? Before we go on to some  
4 more documents, let me ask you about a couple things  
5 that you discussed before.

6 You mentioned that you directed an investigation  
7 concerning allegations of racism in the department when  
8 you were discussing Commander James Muhic, correct?

9 MS. BOOP: Let me note an objection to the  
10 line of questioning. If I could have a standing  
11 objection, so I don't keep interrupting, to any line of  
12 questioning regarding the 1999 allegation, insofar as it  
13 doesn't fall within the designated topics.

14 In with that objection, please go ahead and  
15 answer.

16 MR. CALDERONE: Also note an objection to  
17 the form of the question.

18 MS. GREENE: Go ahead, Mr. Flask.

19 A. I did, in fact, have a conversation with Retired  
20 Commissioner James Muhic regarding that 1999  
21 investigation. There was some information that came to  
22 light during my tenure as chief of police that alleged  
23 there was organized racial groups operating within the  
24 Cleveland Division of Police, including Ku Klux Klan  
25 members. And it was very public allegation.

1 Police. And, of course, there was the training that was  
2 provided to the officers that was included within -- was  
3 training directly -- required the officers to comply  
4 with.

5 Q. Did you review the deposition of Edward Tomba in  
6 preparation for your deposition today?

7 A. I did.

8 Q. For the matters of Jackson versus City of  
9 Cleveland and Ajamu/Bridgeman, versus City of Cleveland?

10 A. I did review Retired Deputy Chief's Tomba's  
11 deposition. But I was not familiar with the cases that  
12 he was specifically questioned about during the  
13 deposition.

14 Q. Okay. So getting back to the written sources of  
15 policies in 1970s and that decade, '70 to '80. You  
16 mentioned GPOs, you mentioned departmental notices, and  
17 the Manual of Rules. Was there anything else that would  
18 have constituted a written policy at the department at  
19 that time?

20 A. Well, certainly, there was information and  
21 requirements set forth in the Ohio Revised Code, the  
22 ordinances of the City of Cleveland, the Civil Service  
23 rules for the City of Cleveland. There was three  
24 additional sources of policies and written guidance or  
25 direction given to the officers within the Division of

1 Police.

2 Q. Okay. Anything else?

3 A. Nothing that I can recall right now. No.

4 Q. Was there a Homicide Unit manual in the 70s?

5 A. There was a Detective Bureau manual that provided  
6 direction to the Homicide Unit investigators that was  
7 issued some time in 1970. I think summer of 1970.

8 Q. Okay. So there wasn't a manual specific to the  
9 Homicide Unit though, was there?

10 A. Not that I'm aware.

11 Q. Now you mentioned Detective Bureau manual. That  
12 applied to all detectives, including those in the  
13 Homicide Unit; is that right?

14 A. Yes, it did.

15 Q. And are you referencing, when you talk about that  
16 manual that we previously marked as Exhibit 24?

17 A. 24 and 25.

18 Q. So those are two separate manuals, correct?

19 A. That's correct.

20 Q. Okay. Beyond -- and well, and those two manuals  
21 in Exhibit 24 and the portion of Exhibit 25 that  
22 pertains to detectives, specifically, those also  
23 constitute policies of the department, correct?

24 A. That's correct.

25 Q. Are there any other manuals or collections of

1 rules or orders that constituted policies in the  
2 department in the 70s?

3 A. That which I had referred to previously. It was  
4 rules of conduct for officers and members,  
5 specifically --

6 Q. Okay.

7 A. -- rules of conduct and discipline for the  
8 officers, members, and employees of the Cleveland  
9 Division of Police Department of Public Safety.

10 Q. And that Manual of Rules is contained in Exhibit  
11 25 and in Exhibit 1, correct?

12 MS. BOOP: Objection. I'm sorry, which --  
13 you are referring to Exhibit 1?

14 MS. GREENE: Yeah. You know what? Maybe I  
15 -- have I shown that to you guys yet?

16 MS. BOOP: No. You haven't marked it as an  
17 exhibit.

18 MS. GREENE: All right. Well, it is marked  
19 in a prior deposition.

20 MS. BOOP: Okay.

21 MS. GREENE: I'll share it with you. I  
22 believe this is what we were looking at on the screen  
23 earlier, when we determined that another version of this  
24 had been produced in this litigation.

25 So what I've placed on the screen for you

1     **the manual?**

2           A.   I'm not aware of any specific testing that  
3     occurred.

4           Q.   Okay.   Okay.   I'd like for you to turn to Rule 1,  
5     which in my electronic copy is on page 43 of this  
6     document.   I cannot read the stamp there.   It's manual  
7     43.

8                   MS. BOOP:   Do you see these little  
9     notations?   That's what page numbers she's referring to  
10    by Manual.

11                   You're on Manual 43?

12                   MS. GREENE:   Yes.

13           A.   I have it in front of me.

14           Q.   Okay.   And so as you look at Rule 1, Obedience to  
15     Rules, it states that, "All officers, members, and  
16     employees of the Division of Police shall familiarize  
17     themselves with the rules and shall obey them," correct?

18           A.   That's correct.

19           Q.   How did the City enforce this?

20                   MS. BOOP:   Are you talking about the time  
21     period subject to the notice, or are you talking about  
22     now?

23                   MS. GREENE:   Talking about the time period  
24     subject to the notice.

25                   MS. BOOP:   Thank you.



1       A. Officers who do not comply with the rules set  
2       forth in the manual are subject to disciplinary charges  
3       being referred against them. If found guilty, being  
4       disciplined. Officers had the responsible to  
5       familiarize themselves with all of the rules and shall  
6       obey them. And those officers that did not comply, that  
7       was brought to their attention through a supervisor  
8       oversight, citizens complaints, information from the  
9       prosecutor, or another officer that resulted in an  
10      investigation, would subject them to potential  
11      disciplinary action.

12       **Q. And so what were the mechanisms in place to**  
13      **monitor officers compliance with the rules?**

14      A. Well, that's the rule of the officers immediate  
15      supervisor, officer in charge, commanding officers, at  
16      that time the deputy inspectors and inspectors and chief  
17      of police.

18           Information did come forward as a result of  
19      citizen complaints, observations, or a supervisor  
20      identifying a failure. Those facts would be documented  
21      and presented to an organizational chain of command,  
22      ultimately to the chief who would initiate disciplinary  
23      action to the individual officer who broke one of the  
24      rules contained within this manual.

25       **Q. And so if any one of those individuals from the**

1 direct supervisor on up became aware of a rule violation  
2 of an officers, those processes that you just described  
3 were supposed to be initiated, correct?

4 A. That's correct.

5 Q. Okay. I would like you to turn to Rule 14, which  
6 in this version of the manual -- in this version of the  
7 manual is on page 48.

8 A. Okay.

9 Q. And I would like you to look at section 2 of that  
10 rule, which states that, "The officer in charge shall  
11 cause statements to be taken from persons brought to the  
12 unit in the course of criminal investigations and shall  
13 see that such statements are properly filed and  
14 preserved. These statements shall be available only to  
15 the officers and members of the Division of Police who  
16 are interested in the presentation of a particular case  
17 to the office of the county prosecutor or the Law  
18 Department of the City of Cleveland. Under no  
19 circumstances shall they be given or exhibited to any  
20 other person without the written consent of the chief of  
21 police."

22 Do you see that?

23 A. Yes, I do.

24 Q. Manual 48 to 49. So this aspect of the rule, of  
25 Rule 14, applies to persons brought to the Statement

1 officers who worked in an office duty capacity, were  
2 also required to complete a daily duty report that  
3 articulated -- not articulated, but documented where  
4 they were, what they did, report numbers, contact  
5 information. It outlined from the beginning of their  
6 tour of duty to the end of the day when they went home  
7 what their duties -- the duties that they actually  
8 performed. That --

9 **Q. The daily duty report --**

10 A. -- was called the daily duty report. That was  
11 required to be completed by all officers except those  
12 that were assigned to office duties.

13 **Q. And a detective who was out on the street**  
14 **investigating the a case would not be considered someone**  
15 **assigned office duties, right?**

16 A. That's correct.

17 **Q. And those daily duty reports were recorded on**  
18 **Form 1s, correct?**

19 A. No. A specific document. Form 1 was a report  
20 that conveyed information. There was supplemental  
21 reports. But the daily duty reports was completed by  
22 all officers within the Division of Police, whether they  
23 were patrol or detective function that outlined their  
24 duties and responsibilities and what they did during the  
25 course of the day. And it was submitted at the end of

1 their tour of duty to the supervisor.

2 Q. Was there a specific form that was used for that  
3 purpose, the daily duty report?

4 A. In the 70s, it was called the daily duty report.

5 Q. There was a form, a standard form, that said  
6 Daily Duty Report that the officers filled out in the  
7 70s?

8 A. That's correct.

9 Q. For that daily duty report, were those added to  
10 case files?

11 A. No.

12 Q. Where were they -- well, tell me from the point  
13 in time that the officer wrote the daily duty report,  
14 can you describe to me in the 1970s what happened next?

15 A. They submitted the daily duty report to a  
16 supervisory officer who would review it. If that  
17 supervisory officer had any questions about what was  
18 done or not done or had any questions regarding it, he  
19 would individually ask those officers. The report would  
20 be signed by not only the officer but the supervisor.

21 And it would be retained. There was a specific  
22 retention period for daily duty reports. I'm  
23 familiar --

24 Q. What was that retention period?

25 A. I'd be speculating.

1           **Q. You don't know what the retention period was?**

2           A. I do not specifically know for certain what that  
3 retention period was.

4           **Q. Where were those reports, those daily duty**  
5 **reports retained?**

6           A. I believe they were -- at the district level, the  
7 patrol level, they were kept at the neighborhood police  
8 district in which the officer was assigned. And other  
9 functions were retained within the Detective Bureau or  
10 other units that were being operated within the City of  
11 Cleveland. And again, there was a lot of units in  
12 operation.

13           **Q. So for example, homicide detective wrote a daily**  
14 **duty report, would that daily duty report be retained in**  
15 **the Homicide Unit or would it be retained in the**  
16 **Detective Bureau?**

17           A. You know, I can't remember where specifically it  
18 was retained. I can't remember for the Homicide Unit.  
19 I do not know.

20           I shouldn't say I can't remember, I do not know  
21 where it was retained.

22           **Q. With respect to the retention period, I know you**  
23 **said that you don't exactly know. But do you have a**  
24 **rough idea or general idea how long that retention**  
25 **period was?**

1 notes from that notebook or memorandum book to a case  
2 file, correct?

3 A. There really was no need to.

4 Q. But there was no rule or policy that required  
5 that, right?

6 A. No, there was not.

7 Q. And there was no requirement in any rule or  
8 policy to communicate all of the information in the  
9 memorandum book or the notebook to fellow detectives,  
10 supervisors or other officers, correct?

11 MS. BOOP: Objection. Assumes facts not in  
12 evidence. Mischaracterizes prior testimony.

13 A. The information contained within a notebook or  
14 memorandum book was used as the foundation to refresh an  
15 officer so that when they completed their official  
16 report, prior to reporting off duty, that it was  
17 complete and accurate.

18 Q. Are you reading something right now to answer  
19 that question?

20 A. No.

21 Q. No? That's just straight out of your head?  
22 Okay --

23 MS. BOOP: Just for the record, he is  
24 holding the manual about which you are asking him  
25 questions. He's holding exhibit --

1 A. Rule 85.

2 Q. Okay. Wonderful. So then there was no rule or  
3 policy though, right, that dictated that officers must  
4 report, communicate all the information contained in  
5 their notebook or their memorandum book to their fellow  
6 officers, detectives, supervisors, or others, correct?

7 MS. BOOP: Same objection as the previous  
8 objection.

9 A. Detectives were required and mandated to complete  
10 and update in a form generally of a supplemental report  
11 containing all of the evidence and information that came  
12 to their attention and submit that to the supervisory  
13 officer before they reported off duty.

14 Q. It is true that not all notes contained in the  
15 notebook or the memoranda were always recorded in  
16 supplemental reports, correct?

17 MS. BOOP: Objection.

18 MR. CALDERONE: Objection. Foundation.  
19 Calls for speculation.

20 A. All the information prepared in a report  
21 submitted by an officer was mandated to be truthful and  
22 un-bias.

23 Q. That's not my question. So in your experience as  
24 an officer in the Cleveland Police Department, all the  
25 way up to the time when you were chief, you are aware of

1 officers who had notebooks and memoranda books, right?

2 A. Yes, I did.

3 Q. And of course, you even had one yourself at some  
4 points, right?

5 A. As a young police officer, I did.

6 Q. And it is true that not every single piece of  
7 information that was written into your notebook made it  
8 into a report, correct?

9 A. I believe that there was some information that I  
10 would write in my notebook that would not be included  
11 within an official report and something along the lines  
12 don't forget a memo, personal note to myself as a  
13 reminder to do something in my personal life. And that  
14 would not be, of course, included within an official  
15 report.

16 MS. GREENE: Okay. All right. I would like  
17 to move on from this manual to a different document.

18 And Jasmin, if you could please provide Mr.  
19 Flask with what was previously marked as Exhibit 2.

20 MS. BOOP: I think we have it here.

21 MS. GREENE: I'll share it on the screen as  
22 well.

23 MS. BOOP: Can we take a quick break? I'm  
24 going to go get clips.

25 MS. GREENE: Can we -- let's -- first of



1 would be presented to the prosecutor. The prosecutor  
2 would have an opportunity to review all the evidence and  
3 make the determination of what may be exculpatory and  
4 which may be not, under rules established by the Court.

5 The policemen and detectives were, for the most  
6 part, not attorneys. So that decision clearly rests in  
7 the hands of the prosecutor. Again, the policemen were  
8 required and mandated to collect and document all  
9 information, communication, statements, and information  
10 that came to their attention, include that within that  
11 report and included that within the file.

12 **Q. Was there any policy or other written guidance or**  
13 **rule, any other written material that define for**  
14 **officers what "evidence favorable to the defendant"**  
15 **meant in the 70s?**

16 MR. CALDERONE: Objection. Foundation.  
17 Form of the question.

18 Go ahead.

19 A. Certainly was some training that was provided to  
20 officers in the Cleveland Division of Police, both  
21 supplemental and other communications that was provided  
22 to them, external to the general police orders,  
23 unconstitutional law, Rules of Evidence, and so forth.  
24 So I think most police --

25 **Q. So Mr. --**

1 MS. GREENE: Hang on. Let him finish.

2 A. -- officers had an understanding of what  
3 constituted Brady, versus Maryland constitutional  
4 issues.

5 But, again, the officer's responsibility was  
6 pretty clear. They were mandated to collect all  
7 information and present it and make an integral part of  
8 the case file, which ultimately is to the prosecutor for  
9 review.

10 Q. My question to you is, is there any written  
11 guidance, policy, rule, that defines for officers what  
12 "evidence favorable to the defendant" was?

13 MS. BOOP: Objection. I think he answered  
14 the question.

15 Go ahead.

16 MR. CALDERONE: Objection. Foundation as  
17 well.

18 A. I do not recall any specific policy that  
19 identifies specifically what constituted exculpatory  
20 evidence. I do not remember any specific policy or  
21 order, other than that which is contained in General  
22 Police Order 19.73.

23 Q. You said 1973?

24 MS. BOOP: Yes. That's what he said.

25 MS. GREENE: Okay. Thank you.

1 All right. I would like to turn to GPO  
2 33-70, which is on the page -- there are two Bates stamp  
3 on them. One is Supplemental Production 1847. At the  
4 bottom right, it also says CLE 3159.

5 MS. BOOP: Let me find it.

6 THE WITNESS: Okay.

7 MS. BOOP: Are you referring to CLE 3159,  
8 Supplemental 1847?

9 MS. GREENE: Yes. That is what I said.

10 MS. BOOP: I know. By the time I find it, I  
11 forget it.

12 MS. GREENE: It's on the screen, too, for  
13 reference.

14 MS. BOOP: Yeah. But it's, like, really  
15 small.

16 MS. GREENE: Okay. If you need me to zoom  
17 in, let me know.

18 Q. It's GPO 33-70 that we are looking at on this  
19 page. It addresses the field training program, correct?

20 A. That's correct.

21 Q. What did the field training program consist of in  
22 the 70s?

23 A. Classroom training, certification, and  
24 evaluations. The field training officer had the  
25 responsibility to evaluate the performance of

1       A. Other than the direction provided within the  
2 manual here, I'm not aware of any other instructions  
3 being given.

4       Q. Okay. Well, in any case, this section 3.87  
5 obligates detectives, including those in the Homicide  
6 Unit, to investigate every lead until it's been proved  
7 valueless or nothing further can be done, correct?

8       A. Yes, it does.

9       Q. And in a situation where a suspect has an alibi  
10 but that alibi is later proven to not cover the full  
11 time period within which the crime might have been  
12 committed, then that suspect lead has not reached the  
13 stage of becoming valueless or nothing further can be  
14 done, correct?

15               MS. BOOP: Objection to the form of the  
16 question.

17       A. You're asking me to speculate on a specific  
18 investigative process, and I can't do that. Detectives  
19 are --

20       Q. Well --

21       A. Detectives are, in fact, mandated to follow  
22 through and identify any prospective lead. And that's  
23 clearly identified within the order, itself.

24       Q. So in your experience, when you were doing  
25 detective work, you had a suspect or that suspect had an

1 alibi. And you later learned that the window of time in  
2 which the crime was committed was not fully covered by  
3 that alibi, you would not consider that suspect lead to  
4 have reached the stage of valueless, correct?

5 MS. BOOP: Objection.

6 A. It would mandate that the investigating officers  
7 complete a supplemental report, give it to the  
8 supervisor included with the case file, all the way to  
9 the prosecutor, who can, as part of the investigatory  
10 process after the individual is charged, continue the  
11 investigation.

12 As I stated before, it's routine for a prosecutor  
13 to meet with an investigating officers to flesh out any  
14 information necessary to successfully conduct a case or  
15 proceed with a case.

16 Q. So in that circumstance, though, a report should  
17 have been written by the detective when he learned that  
18 the alibi didn't cover the full window of time during  
19 which the crime might have been committed, correct?

20 MS. BOOP: Objection.

21 A. Again, detectives are required to include all  
22 information within their supplemental reports. Anything  
23 that --

24 Q. And --

25 A. Anything that comes to their attention should be

1 included within a supplemental report and included  
2 within the case file.

3 Q. Okay. And that circumstance that we've discussed  
4 would not constitute the circumstance where nothing  
5 further can be done with that suspect lead, right?

6 MS. BOOP: Objection.

7 MR. CALDERONE: Objection. Form.

8 A. I don't understand the question.

9 MR. CALDERONE: Good. Neither do I.

10 Q. Sure. Where a suspect in a case presents an  
11 alibi and you, as an officer, learns later on that the  
12 alibi doesn't cover the whole window of time during  
13 which the crime might have been committed, that suspect  
14 lead has not reached -- become a lead where nothing  
15 further can be done, correct?

16 MS. BOOP: Objection. Form of the question.  
17 Assumes facts not in evidence. Calls for speculation.

18 You can answer.

19 MR. CALDERONE: Objection. Asked and  
20 answered.

21 A. You know, detectives are mandated to prepare a  
22 report that any information that comes to light, any  
23 information they learn, every communication, every  
24 statement, every bit of evidence that they acquired  
25 during the course of the investigation can and should

1 be, and mandated to be -- I shouldn't say "can" or  
2 "should be." It's mandated to be included within the  
3 investigative file.

4 That information would be presented to the  
5 prosecutor. The prosecutor, again, as the investigation  
6 moves forward toward the potential trial, the prosecutor  
7 has, in fact, an opportunity to meet with the officers,  
8 and routinely meets with the officers, to further  
9 question the officers in what information was available,  
10 what -- in the prosecutor's mind, what additional  
11 information should be included, additional statements  
12 that might be taken, additional inquiries that could and  
13 should be made by investigators to ensure that when the  
14 case is actually ready for trial, that all of the  
15 evidence is available to the prosecutor.

16 MS. GREENE: Okay. I'd like to take a brief  
17 break off the record.

18 THE VIDEOGRAPHER: We're off the record at  
19 3:22.

20 - - - -

21 (Off the record.)

22 - - - -

23 THE VIDEOGRAPHER: Back on the record at  
24 3:33.

25 MS. BOOP: Okay.

1 But the tabs are very detailed and very impressive. But  
2 it's just a matter of going through the tabs.

3 Do you have a clean copy? Do you have a  
4 Bates number?

5 MR. CALDERONE: Yeah, Jacqueline, does your  
6 first page of that document begin with the M-13 at the  
7 top.

8 MS. GREENE: Begins with M-24. It's an  
9 excerpt. Page 23 of the document.

10 MR. CALDERONE: I have that page here,  
11 begins with page 23.

12 MS. BOOP: Where does it end?

13 MS. GREENE: Yeah.

14 MR. CALDERONE: Where does your exhibit end?

15 MS. GREENE: On page 24. It's just those  
16 two pages.

17 MS. BOOP: Do you have a lot of questions  
18 about it that will require him to look at it?

19 MS. GREENE: No.

20 MS. BOOP: Let's give it a shot. And if we  
21 have to look at it, I'll make a copy.

22 Q. I'm showing you what's been marked as Exhibit 35.  
23 And my question to you is, you'll see in the middle of  
24 page 23 of this exhibit, Memorandum 25, April 13, 1961,  
25 Subject Re-issue Memorandum 2660, April 14, 1960, to all



1     **members of the department.**

2             **Do you see that memorandum?**

3             MS. BOOP: Can you read it, or do you want  
4     me to make you a copy?

5             I'm going to make a copy real quick.

6             MS. GREENE: Okay. Well, okay, let's go off  
7     the record.

8             THE VIDEOGRAPHER: Off the record at 4:23.

9             - - - -

10            (Off the record.)

11            - - - -

12            THE VIDEOGRAPHER: We're back on the record  
13     at 4:28.

14            MS. GREENE: Okay. Thank you.

15     BY MS. GREENE:

16            **Q. Okay. So we've just handed to you what's been**  
17     **marked as Exhibit 35. I would like to direct you,**  
18     **please, to the April 13, 1961 memorandum on page 23 of**  
19     **the exhibit, and ask if you've ever seen this before?**

20            A. I did see this, a copy of this document last  
21     week.

22            **Q. Okay. And do you know -- the effective date of**  
23     **this memorandum was April 13, 1961, correct?**

24            A. It appears to be an M-25, dated April 13, 1961.  
25     The subject, specifically, Re-Issue a Memorandum From

1 1960 to All Members of the Department.

2 Q. Okay. And so this references obligations of  
3 officers with respect to subpoenas, correct?

4 MS. BOOP: Objection. Mischaracterizes the  
5 document.

6 Q. That's correct, sir?

7 A. Yes, it is.

8 Q. Okay. And do you know whether officers in the  
9 department were ever trained with respect to the content  
10 of this memorandum?

11 A. Well, like other orders that are issued by the  
12 chief of police to the officers of the Division of  
13 Police, failure to comply with this order would, in  
14 fact, result in some sanctions to the individual police  
15 officer. But --

16 Q. But no formal --

17 A. -- whether or not a specific training was  
18 actually provided, this would have been information that  
19 would have been shared at rollcalls, a memorandum was  
20 given to the individual officers, and may be discussed.  
21 But whether or not there was any training on this  
22 memorandum, I do not know.

23 Q. Okay. Okay. We're going to talk about topic 2,  
24 please in the Notice, of Exhibit 23.

25 Before we get into what the notice states, I

1 would like for you to generally, please describe for me  
2 officer and detective training in the 1970s in brief.

3 - - - -

4 (Court reporter requested clarification.)

5 - - - -

6 Q. Please describe for me officer and detective  
7 training in the 1970s in brief.

8 A. All officers of the Cleveland Division of Police,  
9 once they were selected and met the minimum  
10 qualifications for appointment to the Division of  
11 Police, were required to undergo a training curriculum  
12 that was established by State Attorney General's office,  
13 actually the Ohio Peace Officer Training Commission.

14 The Ohio Peace Officer Training Commission set  
15 forth the minimum training requirements, the topical  
16 areas that were included in the training, and the number  
17 of hours of training that were required of all the  
18 individual officers.

19 During the training itself, officers were  
20 expected to be alert, learn, and were routinely tested  
21 during a program to ensure that they were meeting the  
22 goals of being informed. If they were successful in  
23 completing the training program and passed the final  
24 examination, the Division of Police would notify the  
25 attorney general's office, the Ohio Peace Officer

1 Training Council, under the attorney general, that the  
2 officer themselves had met the minimum qualifications  
3 for appointment as a police officer in the State of  
4 Ohio.

5 That was the minimum training, classroom training  
6 that was provided to officers in the police academy.  
7 Following the police academy, all officers were assigned  
8 to specific duties in the Division of Police.  
9 Generally, almost exclusively, they were assigned to  
10 patrol activities out in neighborhoods in the City of  
11 Cleveland. They were under the direct supervision or  
12 control of a field training officer who evaluated that  
13 individual.

14 Those training officers had gone through a  
15 training program themselves to ensure that they could  
16 provide the necessary training to ensure success of that  
17 individual officer. Those new officers were evaluated  
18 on a regular basis. And, in fact, the training officers  
19 themselves were evaluated every six months by their  
20 supervisors to ensure they were doing a good job with  
21 the new police officer, the new recruit.

22 That was the minimum training that applied to  
23 officers. It was other training that was provided. And  
24 I remember specifically in 1974, there was a 40 hour  
25 mandatory in-service training program for all officers

1 in the Division of Police, including supervisors on the  
2 Ohio Revised Code Rules of Criminal Procedure and some  
3 constitutional law issues. Those -- that training was  
4 mandated by state attorney general and the state.

5 And I say the state attorney general. Might have  
6 been the Ohio Peace Officer Training Commission or the  
7 attorney general. But it was state mandated training.

8 So that notice went out to all the officer in the  
9 Division of Police in 1974, that they were all required  
10 to undergo an additional 40 hours of classroom training  
11 to ensure that they understand the new criminal code,  
12 Rules of Evidence, and criminal procedures, and  
13 constitutional law.

14 Again, as I articulated earlier, there was lots  
15 of other training that was provided to officers during  
16 the course of their duties or responsibilities, beyond  
17 classroom, beyond the ride-along. Again, training was  
18 provided to officers on a daily basis. At rollcall,  
19 feedback, duty reports, questions, report review, the  
20 training was continuous then. And that hasn't changed,  
21 other than the amount of hours that the officers had to  
22 undergo through basic training has changed.

23 It was originally established at about 120 hours.  
24 It rose to about 240 hours in some time around 1972 or  
25 1973. Currently, as of 2020, it's 737 hours.

1           So there was -- the training -- the volume in the  
2   level of training provided to police officers have  
3   continued.

4           And again, training had to do with -- discipline  
5   is part of training. Ensuring that people do what they  
6   are supposed to do is part of training. Daily review  
7   and reports and documentation that officers provide is  
8   part of training. Feedback is part of training.  
9   Accolades and awards and award recognition is part of  
10   training. As is, obviously, disciplinary training, as I  
11   had stated before. So training is and was a continuous  
12   process within the Division of Police.

13           MS. GREENE: Can you please pull the  
14   document titled Source Document for Police Training.  
15   I'd like to mark that as Exhibit 36.

16           MR. CALDERONE: Give us one minute to find  
17   this here.

18           MS. GREENE: It will say "Source document of  
19   police training" on the tab.

20           MS. BOOP: We found it.

21           MS. GREENE: Great. Thank you.

22           MR. CALDERONE: You want to give me the  
23   Bates stamp range?

24           MS. GREENE: Just pull the whole thing, Ken,  
25   please.

1 MS. BOOP: The whole tab.

2 MR. CALDERONE: Well, it's not really --  
3 okay. So that's -- let me pull it out of the binder  
4 here. Clip it.

5 MS. BOOP: Do you want to mark it?

6 MS. GREENE: So this document that we are  
7 marking as Exhibit 35[sic] --

8 THE COURT REPORTER: I believe this is 36.

9 MS. GREENE: Thank you. 36.

10 So this document marked as Exhibit 36 should  
11 start with the Bates stamp -- there are two sets on this  
12 document. The first page is Supplemental Production  
13 4290. It's also stamped as CLE 2589. And runs through  
14 SUPP PROD 4587 and is also stamped CLE 2886.

15 - - - -

16 (Thereupon, Plaintiff's Exhibit 36 was  
17 marked for purposes of identification.)

18 - - - -

19 Q. Have you ever seen this document before,  
20 Mr. Flask?

21 A. Yes, I have.

22 Q. And this is a curriculum for OPOTA police  
23 training, correct?

24 A. Yes, it is.

25 Q. Was this document used for training of Cleveland

1 broad and compound nature of that question.

2           You can go ahead and answer to the best of  
3 your ability.

4       A. Detectives were, in fact, again, mandated to  
5 prepare and complete their reports in a truthful and  
6 un-bias manner, submit those reports to a supervisory  
7 officer who would review those reports and incorporate  
8 those reports within a case file that was under the  
9 control of a supervisor in the Homicide Unit.

10       All those case files and all the information  
11 contained within those files was transported,  
12 transferred to the county prosecutor's office, where if  
13 there was any exculpatory information that was contained  
14 within that file, would be had the responsibility --  
15 would be the responsibility of the county prosecutor to  
16 disclose any potential exculpatory information or  
17 exculpatory information.

18       **Q. Are you aware of any specific training provided**  
19 **by the CPD to its officers on topic 2-F?**

20       A. Other than -- sorry.

21           MS. BOOP: Same objection.

22       A. Other than that which is mandated in the policies  
23 and procedures of the Division of Police, I'm not aware  
24 of any specific training.

25       **Q. Okay. Are you aware of any specific training**



1 provided by the CPD to its officers concerning topic  
2 2-G, offering or facilitating false testimony?

3 MS. BOOP: Objection. Assumes facts not in  
4 evidence. Same objection to the previous topic.

5 A. Officers are mandated to be truthful and un-bias,  
6 offer testimony in court to their supervisors and to the  
7 community that is truthful. Violation of that is not  
8 only a violation of -- failure to do that is not only a  
9 violation of Manual of Rules and Regulations and city  
10 policies, but potentially in the manner in which it's  
11 given could result of the officer being charged with a  
12 criminal offense.

13 Officers are mandated to follow the laws in the  
14 State of Ohio, United States, and the ordinances and  
15 charter of the City of Cleveland.

16 Q. Okay. Are you aware of any specific training by  
17 CPD to its officers on that topic 2-G?

18 A. Other than that which is required and mandated in  
19 the Manual Rules and Regulations and Policies, I'm not  
20 aware of any specific training that was offered to the  
21 officers.

22 Q. Okay. And then the same question with respect to  
23 topic 2-H.

24 Are you aware of any specific training by CPD to  
25 its officers concerning discipline, training and

1 **supervision of its detectives, officers and supervisors?**

2 MS. BOOP: Objection. Compound. Confusing  
3 redundant.

4 Go ahead and answer if you understand.

5 A. There's really three issues here. And that  
6 involves discipline, training, and supervision of the  
7 detectives, officers, and supervisors. Currently,  
8 there's an organizational structure that powers  
9 individuals within the Division of Police. Those are  
10 the sergeants, lieutenants, captains and so forth, to  
11 provide oversights to the officers and detectives within  
12 the Division of Police.

13 Training is, again, as I articulated earlier, an  
14 ongoing, almost daily occurrence, within the ranks of  
15 the Division of Police.

16 In terms of discipline, failure to comply with  
17 the Manual of Rules and Regulations and Policies and  
18 Procedures of the Division of Police could, and often  
19 does, subject an officer to some disciplinary  
20 consequences.

21 **Q. Are you aware of any specific training by the**  
22 **Cleveland Division of Police for its officers on topic**  
23 **2-H?**

24 A. Other than that which I've explained, in terms of  
25 the consequences to adhere to the policies and

1 MS. BOOP: Same objection.

2 You can answer.

3 A. Yes, I do.

4 Q. Okay. I would like to show you another document.  
5 This is not in the binder because Tim produced it to me  
6 on Friday, on behalf of the City of Cleveland. But...

7 MS. BOOP: Jacquie, how voluminous is it?  
8 Do you think it would be worthwhile printing out it out  
9 and putting it in front of the witness?

10 MS. GREENE: Sure. Let's go off the record.

11 THE VIDEOGRAPHER: We're off the record at  
12 10:54.

13 - - - -

14 (Off the record.)

15 - - - -

16 THE VIDEOGRAPHER: We are back on the record  
17 at 11:10.

18 - - - -

19 (Thereupon, Plaintiff's Exhibit 43 was  
20 marked for purposes of identification.)

21 - - - -

22 BY MS. GREENE:

23 Q. Okay. Mr. Flask, you've been handed what's been  
24 marked as Exhibit 43, which includes documents produced  
25 by the City of Cleveland on Friday[sic] last week.

1                   **And have you seen the contents of Exhibit 43**  
2                   **before?**

3                   A. I have.

4                   **Q. This is a correspondence course of constitutional**  
5                   **law and related GPOs and reading materials; is that**  
6                   **right?**

7                   A. Yes. This is included in some of the documents I  
8                   had the opportunity to review.

9                   **Q. Okay. And the documents contained in this**  
10                  **exhibit refer to an optional constitutional log**  
11                  **correspondence course for Cleveland police, correct?**

12                  A. The police academy will offer six correspondence  
13                  courses. One of which was constitutional law for the  
14                  police officer.

15                  **Q. And it was an optional course, correct?**

16                  A. There was not mandatory attendance.

17                  **Q. Okay. Do you know whether the individual**  
18                  **defendants named in this litigation took this course?**

19                  A. I did have the opportunity to review the  
20                  personnel files for the defendant officers. And many of  
21                  the officers took supplemental courses for this  
22                  training. But I don't recall which ones specifically.  
23                  But there were supplemental training courses that were  
24                  attended by the individual officers who are defendants  
25                  in this matter.

1 Q. Did any of the individual defendants take this  
2 course?

3 A. I believe there was at least one.

4 Q. And you don't know which one that was?

5 A. It was either Leo Allen or Hicks, but I don't  
6 recall which one specifically.

7 Q. Okay. All training taken by the individual  
8 officers would be contained in their personnel files,  
9 correct?

10 A. It should be included within their personnel  
11 files.

12 Q. And the personnel files would include all of the  
13 titles of the programs that those officers took for the  
14 training in the Cleveland Police Department, correct?

15 A. Personnel files would be pretty inclusive of  
16 investigations, requests, documentation, training,  
17 training requests, many times vacations, military  
18 service, requests for specific items that were more  
19 related to their personnel matters rather than to  
20 individual investigations.

21 Q. Okay. For Mr. Comodeca, do you know whether at  
22 any time in his employment he was ever investigated by  
23 the City of Cleveland?

24 A. Yes, I do.

25 Q. For what?

1 A. He was --

2 MR. CALDERONE: Objection. Foundation.  
3 Relevance.

4 A. During my review of the personnel files, I did  
5 observe that Officer Comodeca, back around 1954 or 1955,  
6 was involved in a fight, a disturbance of some type that  
7 I categorized as a fight that led to disciplinary action  
8 being taken against him.

9 Q. And what was the discipline for that?

10 A. The chief of police reviewed -- referred the  
11 matter to the Director of Public Safety for review and a  
12 decision. I believe Officer Comodeca pled guilty to the  
13 charges or charge that he violated a Manual of Rules of  
14 Regulations to the Division of Police and received a  
15 reprimand from the director of public safety.

16 Q. Reprimand is just, like, a letter that goes in  
17 your personnel file, right?

18 MS. BOOP: Objection.

19 You can answer.

20 A. It's unclear whether it was a verbal or written.  
21 But there was evidence in the file that indicated that  
22 the matter went before the Director of Public Safety.  
23 And that letter from the Director of Public Safety to  
24 the chief of police was, in fact, included in the file.

25 Q. And that event involved off-duty conduct,

1     **correct?**

2         A.   Yes, it did.

3         **Q.   Was he investigated for anything else?**

4         A.   I'm not aware of any other further investigations  
5 involving -- none -- if there were any other  
6 investigates that may have been conducted or other  
7 documentation within his file, but none that led to any  
8 disciplinary action.

9         **Q.   And let me ask briefly, none of the individual**  
10 **defendants in this matter attended any detective school**  
11 **from the Cleveland Police, correct?**

12                 MS. BOOP:  Objection.

13                 You can answer.

14                 MR. CALDERONE:  Objection to foundation.

15         A.   All received training, but the terminology  
16 "detective training," I can't specifically address  
17 whether or not it was detective or some other form of  
18 instructional training provided by the Division of  
19 Police.

20         **Q.   Okay.   For Mr. Dugan, do you know whether he was**  
21 **ever investigated by the City of Cleveland?**

22         A.   Yes.   Yes, he was.

23         **Q.   And for what?**

24         A.   He did, in fact, receive disciplinary action  
25 around either 1976, 1977, for a sick-leave violation,

1 that at that time, he violated a rule of the Cleveland  
2 Division of Police that mandated when an officer  
3 reported off sick, he had to stay at his residence  
4 during the time in which he had reported off sick.  
5 Superior officer went to his home and found no evidence  
6 that he was actually at the home. And he faced  
7 disciplinary action for that violation. And did, in  
8 fact, receive a one-day suspension.

9 **Q. Was Mr. Dugan ever investigated or disciplined by**  
10 **the City of Cleveland for anything else?**

11 A. Dugan was, in fact, investigated for an alleged  
12 assault that took place in the 1950s. And I was able to  
13 review the documentation that was prepared by then  
14 Lieutenant Edward Lentz, detailing the investigation,  
15 itself. The fact that Dugan, along with all of the  
16 other officers on his shift within the 3rd Police  
17 District, were put into a lineup, where the victim of  
18 the assault and one witness had the opportunity to  
19 review all of the officers. That investigation was  
20 concluded without having any disciplinary action taken  
21 against Dugan.

22 **Q. Was it determined that he had, in fact, engaged**  
23 **in the assault?**

24 A. There was no evidence to support the allegation  
25 that he was.



1 responsibility within the Cleveland Police Academy. I  
2 believe it was Lieutenant Reagan, R-E-A-G-A-N, to the  
3 best of my memory.

4 **Q. And you said the chief had the ultimate**  
5 **responsibility for the training in that period?**

6 A. It was the chief of police's responsibility for  
7 the conduct and discipline for all officers within the  
8 Division of Police.

9 **Q. And that included all training of all officers,**  
10 **right?**

11 A. Organizationally, all officers within the  
12 Division of Police, through the chain of command,  
13 reports to the chief of police.

14 **Q. The chief of police was ultimately responsible**  
15 **for all policies of the police department in the 70s,**  
16 **right?**

17 A. With the exception of those policies that were  
18 based on funding, legislation, and other matters that  
19 required either administrative, Director of Public  
20 Safety or City Council approval.

21 **Q. With respect to Exhibits 24 and 25, and the**  
22 **policies contained in those documents, were those**  
23 **policies subject to that approval beyond the chief of**  
24 **police?**

25 MS. BOOP: Objection. It's been asked and

1 answered.

2 Go ahead.

3 A. The chief of police does, in fact, report to the  
4 Director of Public Safety who reports to the Mayor of  
5 the City of Cleveland. But in terms of the policies  
6 contained within the Detective Bureau manual in 1970,  
7 the Manual of Rules, and the conduct manual, those  
8 generally would have been under the direct supervision  
9 or control and authorized by the chief of police.

10 Q. Okay. In the 1970s, did the CPD do anything to  
11 ensure that its officers would not withhold exculpatory  
12 evidence?

13 MS. BOOP: Objection.

14 A. Cleveland police officers had the duty and  
15 responsibility to obtain information, complete reports  
16 and ensure that those reports, communication, and  
17 evidence be included within the investigative files that  
18 were under the control, maintenance by a superior  
19 officer. So every officer at the Division of Police  
20 that was involved in an investigative process, was  
21 mandated and required complete reports that were  
22 reviewed and included within a case files that were  
23 under the control of the superior officer.

24 Q. Has the City ever received any complaints about  
25 officers holding exculpatory evidence?

1 MS. BOOP: Objection.

2 You can answer.

3 MR. CALDERONE: Objection. Scope.

4 Foundation.

5 A. I'm not personally aware of any specific  
6 complaint where an officer withheld exculpatory  
7 evidence. Because all evidence, all reports,  
8 communications, documentation and communication is  
9 required to be obtained within the investigatory file  
10 presented to a prosecutor. The prosecutor makes the  
11 determination what constitutes exculpatory evidence.

12 **Q. In the 1970s, can you identify any instance when**  
13 **an officer was investigated or disciplined by the City**  
14 **for failing to disclose exculpatory evidence?**

15 MS. BOOP: Objection.

16 A. I'm not personally aware of any incident like  
17 that.

18 **Q. Are you aware of any incident like that over the**  
19 **course of your career with the City of Cleveland?**

20 MS. BOOP: Objection.

21 You can answer.

22 A. I'm not aware of any incident like that ever  
23 occurring during my career between 1973 and 2022.

24 **Q. Can you identify an instance where the City**  
25 **investigated or disciplined an officer for withholding**

1           Q.   Please turn to the next page in Exhibit A. It's  
2   Bates stamped 4602.

3                   And this appears to be a letter, which was dated  
4   April 11, 1967, correct?

5           A.   Yes, sir.

6           Q.   The letter was written by Richard Wagner Chief of  
7   Police, correct?

8           A.   That's correct.

9           Q.   Do you remember Mr. Wagner being the chief of  
10   police back in '67?

11          A.   I do not.

12          Q.   Looking at the letter of who it was addressed to  
13   it, it identifies Mr. Anson Cook, Executive Director of  
14   the Ohio Peace Officers Training Council, correct?

15          A.   That's correct.

16          Q.   Would you please read the second paragraph of  
17   this letter for me.

18          A.   "Group A, consisting of 40 patrolmen, roster  
19   attached, will receive the complete recruit training  
20   course immediately at the Cleveland Police Academy with  
21   the completion date of June 30, 1967."

22          Q.   And read the next paragraph, please.

23          A.   "Groups B and C, rosters attached, will receive  
24   88 hours of intensified training preparatory to street  
25   assignment with Group B returning to the police academy

1 on July 1, 1967, and group C on October 1, 1967, for the  
2 complete training course."

3 Q. So this letter, as we see it on the document, is  
4 a letter from the chief of police in Cleveland to the  
5 Ohio Peace Officers Training Council, discussing  
6 Cleveland Police Academy training, correct?

7 A. And the schedule of training, that is correct.

8 Q. Turn to the next page of Exhibit A.

9 A. Yes, sir.

10 Q. This document, I believe, is Bates stamped  
11 Supplemental Production 4603. This appears to be an  
12 April 14, 1967 letter from Mr. Cook, the executive  
13 director of the Ohio Peace Officers Training Council,  
14 back to Mr. Wagner, the chief of police in Cleveland,  
15 correct?

16 A. That's correct.

17 Q. Would you please read the second paragraph of  
18 this letter into the letter.

19 A. "The Cleveland Police Department is to be  
20 commended for their progressive program and police  
21 training. We wish you continued success."

22 Signed by Anson Cook, Executive Director.

23 Q. Based upon the contents of this letter, it  
24 appears that the Ohio Peace Officers Training Council  
25 was very satisfied, if not impressed, by the Cleveland

1     **Police Department's academy, correct?**

2         A.   That's correct.

3         **Q.   I would like you to turn to Exhibit B.**

4                         -   -   -   -

5                         (Thereupon, Defendant's Exhibit B was marked  
6                         for purposes of identification.)

7                         -   -   -   -

8         **Q.   I'll represent to you that Exhibit B appears to**  
9         **be the Ohio Peace Officers Training Council curriculum**  
10        **for 1968.**

11                If you look at the first page, which I don't  
12        think you can see it on the Exhibit, but it's actually  
13        Supplemental Production 4795. The first page of this  
14        exhibit, again, says that it's property of the Ohio  
15        Peace Officers Training Council, correct?

16         A.   That's correct.

17         **Q.   It references the Cleveland Police Academy,**  
18        **correct?**

19         A.   Correct.

20         **Q.   And the years or the dates are March 4, 1968, to**  
21        **April 13, 1968, correct?**

22         A.   Correct.

23         **Q.   And the commander was Captain Pfaff, P-F-A-F-F,**  
24        **correct?**

25         A.   Correct.

1 Q. Looking at the basic subjects that were part of  
2 the Ohio Peace Officers Training Council, again, if we  
3 look at the first 10 or so subjects, they seem to mimic  
4 the subjects we saw in Exhibit A, correct?

5 MS. GREENE: Objection.

6 A. Yes, they do.

7 Q. Okay. Looking at those topics though, just to be  
8 clear, one of the topics is Role of Law Enforcement,  
9 correct?

10 A. Correct.

11 Q. And another topic is Laws of Arrest and Search  
12 and Seizure, correct?

13 A. Correct.

14 Q. Another is Criminal Law and PR, correct?

15 A. Correct.

16 Q. Skipping down a couple, Laws of Evidence,  
17 correct?

18 A. Correct.

19 Q. Court Testimony is another topic which was part  
20 of the curriculum, correct?

21 A. Correct.

22 Q. And, again, Report Writing was a specific topic  
23 of the Ohio Peace Officers Training Council curriculum  
24 in 1968, correct?

25 A. Correct.

1 Q. Looking at the bottom of that column, again, this  
2 document also references that an examination was given  
3 or must be given to all officers going through the  
4 academy, correct?

5 A. Correct.

6 Q. I'd ask you to turn now to the third page of  
7 Exhibit B. This is a March 15, 1968 letter from Michael  
8 Blackwell, Chief of Police in Cleveland, to Mr. Cook,  
9 the executive director of the Ohio Peace Officers  
10 Training Council, correct?

11 A. Correct.

12 Q. The third paragraph of this letter says, "The  
13 original certification requests of the above members  
14 were held up at the time of their respective graduations  
15 from the Cleveland Police Academy for reasons of having  
16 an academic average under 75 percent. However, these  
17 members did attain an average above the 70 percent  
18 minimum standard, as prescribed by the Ohio Peace  
19 Officers Training Council. Therefore, after careful  
20 study of the evaluation reports from the various  
21 district commanders attesting to the performance ability  
22 of the above-named members, it is recommended that they  
23 be certified for permanent appointment to the Cleveland  
24 Police Department prior to determination of their  
25 probationary period, April 1, 1968."



1 Do you see that?

2 A. Yes, sir.

3 Q. This letter that was sent to the Ohio Peace  
4 Officers Training Council seems to indicate that the  
5 Cleveland Police Academy had a 75 percent standard that  
6 it demanded of its officers in the academy, correct?

7 A. That's correct.

8 Q. And that 75 percent standard was higher than the  
9 minimum 70 percent standard that was required by the  
10 Ohio Peace Officers Training Council.

11 A. That's correct. It exceeded the minimum scores  
12 mandated by the Peace Officers Training Council.

13 Q. And I'm going direct your attention to this  
14 letter to the second paragraph. It lists out different  
15 officers, correct?

16 A. That's correct.

17 Q. And as examples, I want to draw your attention to  
18 Detective James Perkins and Patrolman Scott Manley as  
19 two officers identified on this sheet.

20 I would like you to turn, I believe, two pages  
21 further into Exhibit B. And there is a document that is  
22 titled Basic Training Certification Record. And it's a  
23 certification record of James A. Perkins.

24 Do you see that?

25 A. Yes, sir.

1 Q. This is a certification that Mr. Perkins has  
2 complied with certain topics of the Ohio Peace Officer  
3 curriculum, correct?

4 A. That's correct.

5 MS. GREENE: Objection. Foundation.

6 Q. One of the topics or items that Officer Perkins  
7 was certified on was notebooks.

8 Do you see that?

9 A. Yes, sir.

10 Q. Could you tell me what that references?

11 A. During recruit training program, all officers are  
12 required to prepare a notebook, take notes in the police  
13 academy so they can refer back to, for study purposes,  
14 to prepare them for the final examination.

15 Q. And I would ask you to the turn approximately 10  
16 pages past that, to Bates stamped page Supplemental  
17 Production 4809.

18 Are you there?

19 A. Yes, sir.

20 Q. This document is labeled Basic Training  
21 Certification Record. And it's the certification record  
22 of officer Scott Manley, correct?

23 A. Yes, sir.

24 Q. And it indicates that, "I hereby satisfy -- I'm  
25 sorry -- "certify that Scott P. Manley has

1 Q. Court Testimony, correct?

2 A. Yes, sir.

3 Q. And, again, we see Report Writing, four hours?

4 A. That's correct.

5 Q. At the bottom of the page, we see, again, that he  
6 the Ohio Peace Officers Training Council required a  
7 two-hour examination be given on these topics, correct?

8 A. That's correct.

9 Q. I'd ask you to turn approximately three pages  
10 into this Exhibit C, to the document that is Bates  
11 stamped Supplemental Production 4659?

12 A. Yes, sir.

13 Q. And looking at this page, there's two pages.  
14 This appears to be a letter from the chief of police in  
15 Cleveland, to Mr. Cook, the executive director of the  
16 Ohio Peace Officers Training Council, correct?

17 A. That's correct.

18 Q. The date of the letter is January 28, 1970,  
19 correct?

20 A. Yes, sir.

21 Q. I'm going to ask you to go to the third paragraph  
22 of this letter. The letter indicates, "These officers  
23 were in session at the academy for a period of 13 weeks  
24 of intensive training in a course that conforms with the  
25 minimum standard recommendations and requirements of the

1 Peace Officers Training Code."

2 A. That's correct.

3 Q. "The total amount of instructional hours exceeded  
4 500 hours, and included 30 hours in classes on the human  
5 and social sciences, 62 hours of firearms training,  
6 under both indoor and outdoor conditions."

7 It says, "District duty orientation was deferred  
8 this time in order to expedite training and relieve  
9 critical manpower shortages at the district."

10 Below that, it identifies four officers that were  
11 separated from the academy for cause and failure to  
12 achieve satisfactory academic and firearm proficiency  
13 performances.

14 Do you see that?

15 A. Yes, sir.

16 Q. I'd ask you to turn six or seven pages past that,  
17 to the page Bates stamped 4670.

18 Let me know when you're there.

19 A. I'm there.

20 Q. This appears to be a June 18, 1970 letter,  
21 written by Mr. Cook, the executive director of the Ohio  
22 Peace Officers Training Council, to the chief of police  
23 in Cleveland, correct?

24 A. Yes, sir.

25 Q. The first paragraph of that letter indicates,

1 "Replying to your letter of June 15th, we wish to advise  
2 that the present rules and regulations of the Ohio Peace  
3 Officers Training Council provide for minimum of 12  
4 hours of firearms training. We are in the process of  
5 upgrading the minimum Peace Officers Training standards  
6 from 120 to 240 hours. And this, in turn, will increase  
7 the firearms training of a minimum of 26 hours. The new  
8 240-hour program should be in effect on or after  
9 January 1, 1971. Your office will be notified of the  
10 changes and the minimum mandatory training program prior  
11 to the effective date."

12 A. That's correct.

13 Q. So this letter seems to indicate that in June of  
14 1970, the Peace Officers Training Council was increasing  
15 the minimum hours of training required of officers,  
16 correct?

17 A. That's correct.

18 Q. And as we've already noted in these documents,  
19 the curriculum required by the Ohio Peace Officers  
20 Training Council included a specific topic on report  
21 writing?

22 A. It did.

23 Q. And required officers to pass a written  
24 examination on all those topics designated in the  
25 curriculum?

1 A. Yes, sir.

2 Q. And that was a letter that was sent March 23rd of  
3 1973?

4 A. That's correct.

5 Q. The first paragraph of this letter indicates,  
6 "This is to advise the Peace Officers Training Council  
7 that an additional 35 officers have been appointed to  
8 this department and are presently assigned to the police  
9 academy. And date of appointment was March 13, 1973.  
10 And the class will be known as the 81st class, Group 3."

11 The next paragraph reads, "The course of training  
12 will consist of the recommended and required subject  
13 matter, as set forth by the Ohio Peace Officers Training  
14 Council. This information is submitted for the  
15 Council's information and records upon successful  
16 completion of training. Certification for these  
17 officers will be requested."

18 Did I read that correctly?

19 A. Yes, sir.

20 Q. If we turn to the next page, March 24, 1973,  
21 letter from the chief of police to the executive  
22 director of the Ohio Peace Officers Training Council,  
23 correct?

24 A. That's correct.

25 Q. The second paragraph of that letter says, "These

1 officers were assigned to the academy during the above  
2 dates and underwent a course of instruction on police  
3 subjects that consisted of 305 hours and was almost nine  
4 weeks in duration. This course was modeled after and  
5 complied -- I'm sorry.

6 "This course was modeled after and complied with  
7 all requirements of the Ohio Peace Officers Training  
8 regulations."

9 Did I read that correctly?

10 A. Yes, sir.

11 Q. So looking at these three documents consisting of  
12 the Peace Officers Training curriculum and the letters  
13 from the City of Cleveland to the Ohio Peace Officers  
14 Training Council, it appears that officers were  
15 instructed on several topics, including Report Writing  
16 as one, correct?

17 A. Yes, sir.

18 Q. Federal Civil Rights as another topic, correct?

19 A. That's correct.

20 Q. Police Canons and Ethics, as another topic,  
21 correct?

22 A. That's correct.

23 Q. And officers who successfully completed the  
24 Cleveland Police Academy had to pass a two-hour  
25 examination on a curriculum including those topics,

1 correct?

2 A. Yes, sir.

3 Q. I would ask you to look at Exhibit F.

4 - - - -

5 (Thereupon, Defendant's Exhibit F was marked  
6 for purposes of identification.)

7 - - - -

8 Q. Exhibit F is identified also as Supplemental  
9 Production 4647 and is titled, Cleveland Police Academy  
10 Recruit Training Schedule Breakdown.

11 Do you see that?

12 A. Yes, sir.

13 Q. This document seems to indicate the breakdown of  
14 topics that officers were trained on in the Cleveland  
15 Police Academy, correct?

16 A. Correct.

17 Q. And the date on the bottom of this document is  
18 1978, correct?

19 A. That's correct.

20 Q. The total hours identified on this page for  
21 recruit training included 594 hours, correct?

22 A. Yes, sir.

23 Q. If the you turn to the second page of this  
24 document, Bates stamped page 4638. The Cleveland Police  
25 Academy Schedule Breakdown includes several topics,



1 it was the standard of training in the Cleveland Police  
2 Academy that required training on proper investigation  
3 of crimes?

4 A. Yes, sir, it did.

5 MS. GREENE: Objection. Mischaracterizes  
6 evidence.

7 Q. And we know as early as 1973, that the training  
8 in the Cleveland Police Academy included, as a standard,  
9 instruction on Federal Civil Rights?

10 A. It did.

11 MS. GREENE: Objection. Mischaracterizes  
12 evidence. Speculation.

13 Q. I would like you to turn to Exhibit G.

14 - - - -

15 (Thereupon, Defendant's Exhibit G was marked  
16 for purposes of identification.)

17 - - - -

18 A. Yes, sir.

19 Q. Exhibit G, again, seems to be a curriculum of the  
20 Ohio Peace Officers Training Council, correct?

21 A. Yes, sir.

22 Q. And if you look at the document at the top, it's  
23 headed or titled Ohio Peace Officers Training Council.  
24 And the academy identified on this document is what?

25 A. Cleveland Police Academy.

1 Q. And the years addressed on this document is  
2 October 29, 1979, to February 22, of 1980, correct?

3 A. That's correct.

4 Q. And if we look at the basic subjects of  
5 curriculum required by the Ohio Peace Officers Training  
6 Council, on this page, we continue to see one of the  
7 subjects being Role of Law Enforcement, correct?

8 A. That's correct.

9 Q. Police Canons and Ethics were another required  
10 topic of training, correct?

11 A. Correct.

12 Q. Laws of Arrest were another topic of training,  
13 correct?

14 A. Correct.

15 Q. If you go down a couple, Lineups was another  
16 required topic of instruction?

17 A. That's correct.

18 Q. Below that, Rules of Evidence was a topic of  
19 instruction required, correct?

20 A. Yes, sir.

21 Q. Searches and Seizures was another topic of  
22 instruction?

23 A. Yes, sir.

24 Q. If you go down a couple more, Federal of Civil  
25 Rights continued to be a mandatory topic of instruction

1 in the academy, correct?

2 A. Correct.

3 Q. Below that, Law Enforcement and Civil Liberties  
4 was an additional topic of mandatory instruction,  
5 correct?

6 A. Yes.

7 Q. And if you go down three or four below that, we  
8 still have Report Writing as a mandatory topic of  
9 instruction in the academy as required by the Ohio  
10 Police Officers Training Council, correct?

11 A. It did.

12 Q. I'd ask you to turn to Exhibit H.

13 - - - -

14 (Thereupon, Defendant's Exhibit H was marked  
15 for purposes of identification.)

16 - - - -

17 Q. You were asked questions or you testified in your  
18 deposition about probationary patrolmen going through  
19 field training, correct?

20 A. I did.

21 Q. If we look at Exhibit H, it's Bates stamped  
22 Supplemental Production 4892.

23 Do you see that?

24 A. I do.

25 Q. And this appears to be a departmental memorandum

1     **numbered 70-21, correct?**

2         A.   Yes.

3         Q.   Did and the date is January 26, 1970?

4         A.   That's correct.

5         Q.   And the subject of this department memorandum was  
6   Assignment of Probationary Patrolman With Training  
7   Coaches, correct?

8         A.   That's correct.

9         Q.   The memo states that, "Each of the six districts  
10   has 15 patrolmen who received training and are qualified  
11   as coach trainers. Their purpose is to continue the  
12   training of graduate, probationary patrolmen during the  
13   first year of their on-street assignment."

14            Did I read that correctly?

15         A.   Yes, sir.

16         Q.   If you turn to the next page of Exhibit H,  
17   beginning on Supplemental Production Bates number 4893,  
18   this is a general police order that was in effect in  
19   September of 1970, correct?

20         A.   Yes, sir.

21         Q.   And the GPO number is 33-70?

22         A.   Yes, sir.

23         Q.   And says, "Responsibilities and operational and  
24   assignment procedures of the field training program."

25            Correct?

1 A. That's correct.

2 Q. Under the heading of A, this police order  
3 identifies the procedures or responsibilities of the  
4 field training officer, correct?

5 A. That's correct.

6 Q. And item A-4 indicates that, "The training  
7 officer shall provide instruction on, A, police vehicle  
8 operation, B, operational procedures."

9 Now let me stop there.

10 What are operational procedures?

11 A. The general police orders and divisional notices  
12 that have been issued by the chief to ensure that they  
13 are complying with established policy, completing  
14 reports in a proper manner, operating the safe and  
15 appropriate manner while they are out there doing their  
16 duties and responsibilities. Which is three of the  
17 broad topics for Operational Procedures.

18 Q. If we look in this general order, under A-5, it  
19 indicates that, "Field training officers shall examine  
20 and initial all reports prepared by the trainee."

21 What is that referring to?

22 A. Well, generally, that would include the zone car  
23 duty report that was completed every day during the  
24 first year of training. The officers generally prepared  
25 the reports so they would learn how to prepare reports

1 appropriately. Any reports that were submitted by the  
2 new probationary officer would be initialed by the  
3 training officer.

4 Q. And would some of those reports include Form 1s?

5 A. Form 1s, Form 10s, any other supplemental report  
6 that was required to be completed during the performance  
7 of their duties.

8 Q. Looking at item A-6, under GPO 33-70, indicates  
9 that, "Field training officers shall submit periodic  
10 performance-rating reports."

11 What are those?

12 A. On a regular basis, I believe it was every 90  
13 days, the field training officer was mandated and  
14 required to submit a progress report on the performance  
15 of the new probationary officer to ensure -- to identify  
16 any strengths or weaknesses is that may require  
17 retraining.

18 Q. Finally, if you turn to the next page of this  
19 GPO, under item A-7, it says, "The field training  
20 officer's duties, which require extra duty -- open  
21 paren, OT, closed paren -- such as an examination and  
22 preparation of reports shall be credited in accord with  
23 standard overtime procedures."

24 What is that referencing?

25 A. You know, if a field training officer was

1 required to work beyond his normal work hours to  
2 finalize evaluations or reports that were necessary for  
3 his oversight of the probationary officer, the training  
4 officer would, in fact, be entitled to overtime  
5 compensation.

6 Q. I'd like to turn your attention to Exhibit I.  
7 I've marked three different documents here. The first  
8 page being I-1.

9 - - - -

10 (Thereupon, Defendant's Exhibit I-1 was  
11 marked for purposes of identification.)

12 - - - -

13 Q. This document is titled a the top, New Appointee  
14 Progress Report.

15 Do you recognize this report?

16 A. It's an earlier version of an evaluation report.

17 Q. And it's --

18 A. But I do -- I have seen these in the past.

19 Q. This evaluation report has a date of 1967,  
20 correct?

21 A. That's correct.

22 Q. And among the topics that officers were evaluated  
23 on as designated on this form, was the quality of their  
24 work, correct?

25 A. That's correct.

1 Q. And the form references, under the quality of the  
2 work their, their thoroughness, neatness, and accuracy,  
3 correct?

4 A. Yes, sir.

5 Q. Also, another category that officers were  
6 evaluated on at that time is under the heading of  
7 Character and Habits, correct?

8 A. That's correct.

9 Q. And one of the items that was evaluated under  
10 that heading was whether the officer was following  
11 policies and instructions?

12 A. That's correct.

13 Q. And the reference of policies and instructions  
14 refers to what?

15 A. General police orders, divisional notice, Manual  
16 Rules of Regulation, Civil Service, Ohio Revised Code,  
17 ordinances of the City of Cleveland.

18 Q. Looking at Exhibit I-2, we have another Cleveland  
19 Police Department performance rating form that  
20 references a particular officer.

21 - - - -

22 (Thereupon, Defendant's Exhibit I-2 was  
23 marked for purposes of identification.)

24 - - - -

25 Q. Do you see that?



1 A. Yes, I do.

2 Q. The date on this document is 1978, correct?

3 A. That's correct.

4 Q. Looking at this form, we still see that officers  
5 were evaluated on the quality of their work, correct?

6 A. That's correct.

7 Q. And under the heading of quality of their work,  
8 they were specifically evaluated on knowledge of their  
9 duties, correct?

10 A. Correct.

11 Q. Thoroughness of their work, correct?

12 A. Yes, sir.

13 Q. And the ability to make reports, correct?

14 A. Correct.

15 Q. And compliance with departmental policies and  
16 directives, correct?

17 A. Correct.

18 Q. And preparation of court cases?

19 A. Correct.

20 Q. And presentation of court cases?

21 A. Yes, sir.

22 Q. If we look at the last page of Exhibit I-2, we  
23 see yet another Cleveland Police Department performance  
24 rating checklist that was used of officers, correct?

25 A. That's correct.

1 Q. The date on this document is January '77 to April  
2 of '77?

3 A. That's correct.

4 Q. If we look at this form for this officer, we  
5 again see that officers were evaluated on the quality of  
6 their work, correct?

7 A. Yes, sir.

8 MS. BOOP: Just for the record you are  
9 referring to Exhibit I-3. I think you said before I-2.

10 MR. CALDERONE: Oh, I'm sorry. Yeah. I'm  
11 referring to Exhibit I-3.

12 - - - -

13 (Thereupon, Defendant's Exhibit I-3 was  
14 marked for purposes of identification.)

15 - - - -

16 Q. Under the quality of their work, some of the  
17 items that were specifically evaluated of officers  
18 included accuracy of their work, correct?

19 A. Yes, sir.

20 Q. Knowledge of their duties was another topic they  
21 were specifically evaluated on, correct?

22 A. Yes, sir.

23 Q. Thoroughness of their work, correct?

24 A. Yes, sir.

25 Q. And compliance with departmental policies and

1 directives, correct?

2 A. Correct.

3 Q. Considering the information we see on Exhibit H,  
4 which is the Field Training Program, and Exhibit I,  
5 which is the sample evaluation reports of police  
6 officers, was it the fact back in 1974 and 1975, and  
7 before 1974 and 1975, that officers were evaluated on  
8 the thoroughness of their work?

9 A. Yes, they were.

10 Q. And by thoroughness of their work, we are  
11 referring to the officers' ability to make reports?

12 A. Ability. Accurately. And the submission in a  
13 proper manner.

14 Q. And in the quality of their work, officers were  
15 evaluated, in 1974 and before, on whether or not they  
16 complied with departmental policy and directives?

17 A. That's correct.

18 Q. I want to turn back to Exhibit 36 for one moment.  
19 And I want to ask you about some of the specific  
20 training requirements in Exhibit 36.

21 First, I'd ask you to turn to page 130 of this  
22 book paginated page 130. The topic in the Source  
23 Document For Police Training, identified on page 130 in  
24 Exhibit 36, is Report Writing, correct?

25 A. That's correct.

1 Q. If we look at the second paragraph under  
2 Introduction, it says, quite literally, "The success of  
3 the police operation depends upon the quality of your  
4 reports and your ability to write effectively. We rely  
5 on written reports to relay information to our  
6 superiors, coworkers, the courts, and numerous other  
7 agencies. We use them to train personnel to get people  
8 to follow procedures and policies."

9 A. That's correct.

10 Q. A few moments ago, I asked you questions about  
11 the field training program and the evaluation of  
12 officers in the City of Cleveland.

13 Was the standard that we see in Exhibit 36, that  
14 emphasizes the accuracy and completeness of reports, the  
15 same standard that Cleveland police officers were  
16 required to follow back in the 1970s?

17 A. Yes, sir.

18 Q. Were Cleveland police officers trained in the  
19 1970s to write quality, complete reports to the best of  
20 their ability?

21 A. Yes, sir.

22 Q. I would like to look back on Exhibit 36, on page  
23 130, on that same page. Under Roman numeral 1-A, it  
24 says, "Basic definition, a report is an official or  
25 formal statement of fact or proceedings, which relays

1 information in a manner so presented as to put the  
2 reader in the same position relative to the facts as is  
3 the one originating information."

4 Exhibit 36 provides that basic definition of the  
5 word "report," correct?

6 A. Yes, sir.

7 Q. Was that the same standard that the City of  
8 Cleveland Police Department used as the definition of  
9 "report"?

10 A. Yes, it was.

11 Q. And in the 1970s, were police officers for the  
12 City of Cleveland trained on that standard as the  
13 definition of the word "report"?

14 A. Yes, sir.

15 Q. Going back to page 130 of Exhibit 36, under 1-B,  
16 it says, "Investigative report. And investigative  
17 report is a written narrative containing the facts and  
18 findings learned during the course of an investigation.  
19 It is a means of communications used by an investigator  
20 to inform those who are interested in his work of his  
21 progress and of his findings."

22 Did I read that accurately?

23 A. Yes, sir, you did.

24 Q. That was the standard in Exhibit 36, the Source  
25 Document For Police Training in Ohio, as to the

1 definition of an investigative report, correct?

2 A. That's correct.

3 Q. Was that the same standard that the City of  
4 Cleveland Police Department complied with as the  
5 definition of "investigative report"?

6 A. Yes, sir.

7 Q. And were police officers in the City of Cleveland  
8 in the 1970s trained on that definition of an  
9 investigative report?

10 A. Yes, sir.

11 Q. I'd like you to turn to page 131 of Exhibit 36.  
12 This is still in the chapter of Report Writing, correct?

13 A. That's correct.

14 Q. Roman numeral 3 on page 131, in the chapter of  
15 Report Writing identifies Uses of Reports in Police  
16 Operations, correct?

17 A. That's correct.

18 Q. According to Exhibit 36, one use of the police  
19 report is to aid in police administration, correct?

20 A. Correct.

21 Q. Another use is to aid in effective police record  
22 systems, correct?

23 A. Correct.

24 Q. Another use of reports is to aid better police  
25 supervision, correct?

1 A. Yes, sir.

2 Q. Looking at those three uses of reports in Exhibit  
3 36, were these also standards that the City of Cleveland  
4 Police Department trained its officers on for the use of  
5 reports by the Cleveland Police Department?

6 A. Yes, sir.

7 Q. Under letter C on page 131, it identifies one of  
8 the uses of the report is to aid in better police  
9 supervision.

10 And under that topic it says, "By reviewing the  
11 officer's work, the supervisor is able to detect if the  
12 case has been mismanaged."

13 And if you look two numbers before that, it says,  
14 Errors of omission and commission can be detected."

15 Now that identifies standards for supervisors --  
16 I should say police supervisors, in reviewing reports,  
17 correct?

18 A. That's correct.

19 Q. Was this the same standard of expectation of  
20 police supervisors that the City of Cleveland Police  
21 Department had in the 1970s, particularly, 1974 and  
22 1975?

23 A. Absolutely.

24 Q. And did the Cleveland Police Department provide  
25 training to officers on these standards of supervision

1 of files, with respect to reports?

2 A. It did.

3 Q. I'd ask you to turn to page 132, still under the  
4 chapter of Report Writing in Exhibit 36.

5 Another use of police reports identified in  
6 Exhibit 36 is that they aid to the over all police  
7 operations.

8 Do you see that?

9 A. Yes, sir.

10 Q. And one of the items that it specifically lists  
11 there is under D-4, "The individual officer is part of a  
12 team. Unless the information he possesses is available  
13 to others, it is useless as no one else can take proper  
14 action. Information obtained in the officer's memory or  
15 personal notebook is meaningless from a record  
16 standpoint."

17 And the next number says, "A progress or  
18 follow-up report is one method from which an officer is  
19 able to share his information with others and preserve  
20 the continuity of an investigation."

21 And the next number says, "If for some reason an  
22 officer is unable to complete his assignment, proper  
23 documentation of the work already performed will permit  
24 another officer to assume the case with little need to  
25 backtrack or duplicate the efforts already completed."



1           Did I read those standards correctly, under Aid  
2 to Overall Police Operations?

3           A.   You did.

4           Q.   Now those are standards that are set forth in  
5 Exhibit 36. Were those standard also the standards that  
6 were put into operation and enforced by the Cleveland  
7 Police Department in the 1970s?

8           A.   They were.

9           Q.   And particularly, were they in effect in 1974 and  
10 1975?

11          A.   They were.

12          Q.   Were Cleveland police officers trained on those  
13 standards on how to make reports and update them as  
14 mandated in that standard?

15          A.   They were.

16          Q.   Looking at item E on page 132, one of the other  
17 uses of reports is identified as Aid to Outside Police  
18 Agencies.

19               Do you see that?

20          A.   I do.

21          Q.   And one of the standards under this section says,  
22 "Prosecuting attorneys rely on information of police  
23 reports to prepare a case and to determine the charges  
24 to be placed against a criminal."

25          A.   That's correct.

1 Q. Back in the 1970s, and in particular 1974 and  
2 1975, was it the standard in the Cleveland Police  
3 Department that police officer reports were used and  
4 known to be used by prosecutors and preparing cases to  
5 determine whether charges should be placed against a  
6 criminal defendant?

7 A. They were.

8 Q. Were police officers trained back in the 70s and  
9 before the 70s that their reports may be utilized by  
10 prosecutors to charge and pursue prosecution of  
11 suspects?

12 A. Yes, they were.

13 Q. If you look at page 132, one of the topics  
14 identified inspect Exhibit 36 in the chapter of Report  
15 Writing is the importance of note taking in report  
16 preparation.

17 Do you see that?

18 A. I do.

19 Q. Under that topic, it talks about, "Permanency of  
20 notes. And it indicates that information committed to  
21 memory is soon forgotten. Notes, however, are  
22 permanent. A complete and satisfactory report is based  
23 upon the quantity and quality of the notes taken during  
24 the course of the investigation. Many variables,  
25 including ability, training, practice, and effort

1 influence the process of recalling the past."

2 Did I read that correctly?

3 A. You did.

4 Q. The standard identified in Exhibit 36, under this  
5 section of note taking is a standard that indicates a  
6 complete and satisfactory report is based upon an  
7 officer's notes, correct?

8 A. That's correct.

9 Q. Was it the standard in the Cleveland Police  
10 Department in the 1970s, particularly '74 and '75, that  
11 officers would prepare adequate reports based upon notes  
12 they took in the field?

13 A. They did.

14 Q. And were officers trained back at that time on  
15 taking notes in the field and using those notes to  
16 prepare adequate reports?

17 A. They were.

18 Q. One second here. I would like you to turn to  
19 page 134 of Exhibit 36. This is another topic of  
20 training, under Reports. This topic is titled  
21 Fundamentals and Qualities of Good Report Writing.

22 Under B there, I point out that it says, "A  
23 written report must be clear, legible, complete,  
24 accurate, brief, prompt," correct?

25 A. Correct.

1     you've looked at today. This is a departmental memo  
2     issued April 7, 1972, correct?

3         A. That's correct.

4         Q. And this is the memorandum that offered the  
5     constitutional law for police officers, correct?

6         A. That's correct.

7         Q. The course book that is identified in this  
8     memorandum is Constitutional Law For Police, Second  
9     Edition, by John C. Klotter.

10            Do you see that?

11         A. Yes, sir.

12         Q. I would ask you to turn two pages past in the  
13     Exhibit J, and there is a title page of a book, correct?

14         A. That's correct.

15         Q. The next four pages after that seem to be  
16     sections taken from the Constitutional For Police  
17     coursebook, by John C. Klotter, correct?

18         A. That's correct.

19         Q. Now the second page of Exhibit J is another  
20     departmental memorandum that was sent out, or  
21     departmental notice, in April 18 of 1972, correct?

22         A. That's correct.

23         Q. And that notice was just telling officers that  
24     the deadline for enrolling in this constitutional law  
25     course was approaching, correct?

1 A. Closing. That's correct.

2 Q. I would like to turn to some of the topics in the  
3 Constitutional Law For Police coursebook.

4 If you look at the page that is Bates stamped  
5 Supplemental Production 4888, there is a section there  
6 numbered 10.18, correct?

7 A. That's correct.

8 Q. The title of that section is Misconduct of the  
9 Prosecutor.

10 Do you see that?

11 A. Yes, I do.

12 Q. If you look at the first paragraph below that, it  
13 says that, "The office of the public prosecutor in the  
14 United States carries a two-fold responsibility. As the  
15 state's representative in the adversary proceeding, it  
16 is the prosecutor's duty to vindicate wrongs against  
17 society and to see that the guilty do not go unpunished.  
18 Unlike the defense attorney, however, he is not a wholly  
19 partisan figure. Although his ethical obligation as an  
20 officer of the court, means some instances conflict with  
21 his role as society's avenger, he is under an equally  
22 imperative duty to see that those accused of crime  
23 receive a fair trial."

24 Did I read that correctly?

25 A. You did.

1 Q. If you turn two pages past that, within section  
2 10.18, there's a paragraph on that page that states, "A  
3 closely-related problem arises when the state's  
4 attorney, instead of attempting to profit from  
5 introduction of false testimony, keeps to himself  
6 relevant evidence which might have helped the defendant  
7 create a reasonable doubt in the mind of the jury. Here  
8 the defect is one of passive omission, rather than  
9 active commission. Nevertheless, the net effect is the  
10 same. If the state presents evidence pointing to the  
11 defendant's guilt without informing him of evidence in  
12 its possession which contradicts this is inference, the  
13 danger of unfair conviction is equally present."

14 The next paragraph begins by discussing the case  
15 of Brady, versus Maryland.

16 Do you see that?

17 A. I do.

18 Q. Instead of reading the whole paragraph, I'm going  
19 to go to the middle of that paragraph where this  
20 coursebook says, "Consequently, the prosecuting attorney  
21 is under a strict disclosure obligation which is not  
22 neutralized by showing that he acted in good faith."

23 A. That's correct.

24 Q. I want to stop there.

25 Earlier in the deposition, you were shown a GPO

1 issued by the Cleveland Police Department incorporating  
2 a letter from Prosecutor John Corrigan.

3 Do you remember that GPO?

4 A. I do.

5 Q. And in that GPO, Prosecutor Corrigan instructed  
6 police officers that they were not to produce documents  
7 or any other evidence to a criminal defendant or  
8 criminal defense attorney, correct?

9 A. Police department are not required, nor shall  
10 they. I think those were the exact words.

11 Q. And in that police order, which incorporated the  
12 instruction from the prosecutor, it also indicated that  
13 the prosecutor would be the entity in determining what  
14 information would and would not be produced to a  
15 criminal defendant, correct?

16 A. That's correct.

17 Q. I believe after that GPO was implemented, you  
18 also testified about mandatory state training that  
19 required all police officers to be familiar with the new  
20 criminal rules?

21 A. That's correct.

22 Q. And if I recall your testimony correctly, as part  
23 of that mandatory state training, police officers in the  
24 City of Cleveland were trained that they were disclosed  
25 all documents and information to a prosecutor and that